

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA

**AMENDED JUDGMENT
IN A CRIMINAL CASE**

v.

VINTON CONSTRUCTION COMPANY

Case Number: 04-CR-53

USM Number:

Date of Original Judgment:

April 7, 2005

(or date of last Amended Judgment)

Nathan A. Fishbach

Defendant's Attorney

Richard Frohling

Assistant United States Attorney

Reason for Amendment:

- ☐ Correction of Sentence on Remand (18 U.S.C. 3742(f)(1) and (2))
- ☐ Reduction of Sentence for Changed Circumstances (Fed.R.Crim.P.35(b))
- ☐ Correction of Sentence by Sentencing Court (Fed.R.Crim.P.35(c))
- ☒ Correction of Sentence for Clerical Mistake (Fed.R.Crim.P.36)
- ☐ Modification of Supervision Conditions (18 U.S.C. § 3563(c) or 3583(e))
- ☐ Modification of Imposed Term of Imprisonment for Extraordinary and Compelling Reasons (18 U.S.C. § 3582(c)(1))
- ☐ Modification of Imposed Term of Imprisonment for Retroactive Amendment(s) to the Sentencing Guidelines (18 U.S.C. § 3582(c)(2))
- ☐ Direct Motion to District Court Pursuant to
- ☐ 28 U.S.C. § 2255 or ☐ 18 U.S.C. § 3559(c)(7)

THE DEFENDANT pleaded guilty to count one of the indictment.

The defendant is adjudicated guilty of the following offense(s):

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Number(s)</u>
15 U.S.C. § 1	Engaging in a continuing agreement, understanding, and concert of action to submit non-competitive and "rigged" bids for construction projects in unreasonable restraint of interstate trade and commerce.	January 13, 2004	1

The defendant organization is sentenced as provided in Pages 2 through 4 of this judgment.

IT IS ORDERED that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant shall notify the court and the United States attorney of any material change in the defendant's economic circumstances.

Defendant Organization's

Federal Employer I.D. 39-00940674

Date of Imposition of Judgment

April 1, 2005

Defendant Organization's Principal Business Address:

2705 N. Rapids Road

Manitowoc, WI 54221-1987

s/William C. Griesbach, U.S. District Judge

Signature of Judicial Officer

PROBATION

The defendant organization is hereby sentenced to probation for a term of five (5) years at to count one of the indictment.

The defendant organization shall not commit another federal, state or local crime.

If this judgment imposes a fine or a restitution obligation, it is be a condition of probation that the defendant organization pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant organization must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page (if indicated below).

STANDARD CONDITIONS OF SUPERVISION

- 1) within thirty days from the date of this judgment, the defendant organization shall designate an official of the organization to act as the organization's representative and to be the primary contact with the probation officer;
- 2) the defendant organization shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 3) the defendant organization shall notify the probation officer ten days prior to any change in principal business or mailing address;
- 4) the defendant organization shall permit a probation officer to visit the organization at any of its operating business sites;
- 5) the defendant organization shall notify the probation officer within seventy-two hours of any criminal prosecution, major civil litigation, or administrative proceeding against the organization;
- 6) the defendant organization shall not dissolve, change its name, or change the name under which it does business unless this judgment and all criminal monetary penalties imposed by this court are either fully satisfied or are equally enforceable against the defendant's successors or assignees; and
- 7) the defendant organization shall not waste, nor without permission of the probation officer, sell, assign, or transfer its assets.

ADDITIONAL CONDITIONS OF SUPERVISION

1. The defendant shall provide financial information to the supervising probation office upon request.
2. The defendant shall pay a fine in the amount of \$150,000.00 and restitution in the amount of \$1,300,000.00, plus \$100,000.00 joint and several with James and Michael Maples, at a rate set forth in the plea agreement (\$550,000.00 at sentencing, \$50,000.00 at the first and the second anniversary of sentencing, \$200,000.00 on the third anniversary of sentencing, and \$300,000.00 at the fourth and \$150,000.00 on the fifth anniversary of sentencing).
3. In order to monitor whether the organization is following the program to prevent and detect violations of law, the organization shall submit to: (A) a reasonable number of regular or unannounced examinations of its books and records at appropriate business premises by the supervising probation officer or experts engaged by the Court; and (B) interrogation of knowledgeable individuals within the organization. Compensation to and costs of any experts engaged by the Court shall be paid by the organization.

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CRIMINAL MONETARY PENALTIES

The defendant organization must pay the following total criminal monetary penalties under the schedule of payments on Sheet 4.

<u>Restitution</u>	<u>Assessment</u>	<u>Fine</u>
<u>Totals:</u>	\$ 400.00	\$ 1 5 0 , 0 0 0 . 0 0 \$1,300,000.00

- ☐ The determination of restitution is deferred until _____. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.
- ☐ The defendant organization shall make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
WI DOT Attn: Allyn Lepeska P.O. Box 7910 Madison, WI 53707		\$1,300,000.00	
<u>Totals:</u>	\$ _____	\$ 1,300,000.00	

- ☐ Restitution amount ordered pursuant to plea agreement \$ _____
- ☐ If defendant organization shall pay interest on restitution or a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 4 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).
- ☐ The court determined that the defendant organization does not have the ability to pay interest, and it is ordered that:
- ☐ the interest requirement is waived for the ☐ fine ☐ restitution.
- ☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

*Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18, United States Code, for offenses committed on or after September 13, 1994 but before April 23, 1996.

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SCHEDULE OF PAYMENTS

Having assessed the organization's ability to pay, payment of the total criminal monetary penalties are due as follows:

- A ☐ Lump sum payment of \$ _____ due immediately, balance due
- ☐ not later than _____, or
- ☐ in accordance with ☐ C or ☐ D below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C or ☐ D below); or
- C ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☒ Special instructions regarding the payment of criminal monetary penalties:
SPECIAL ASSESSMENT: \$400.00, due immediately.
FINE AND RESTITUTION: April, 2005 - \$550,000.00 - restitution
April, 2006 - \$50,000.00 - restitution
April, 2007 - \$50,000.00 - restitution
April, 2008 - \$200,000.00 - restitution
April, 2009 - \$300,000.00 - restitution
April, 2010 - 150,000.00 - restitution, and \$150,000.00 - fine

All criminal monetary penalties are made to the clerk of the court.

The defendant organization shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

- ☒ Joint and Several
\$100,000.00 restitution is joint and several with co-defendants James and Michael Maples.

☐ The defendant organization shall pay the cost of prosecution.

☐ The defendant organization shall pay the following court cost(s):

☐ The defendant organization shall forfeit the defendant organization's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.